

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

ALVERENE BUTLER,

Plaintiff,

V.

**ALABAMA DEPARTMENT OF
TRANSPORTATION, *et al.*,**

Defendants.

CASE NO. 2:06-cv-00278-MEF-CSC

**DEFENDANTS' MOTION FOR NEW TRIAL PURSUANT TO RULE 59 OF THE
FEDERAL RULES OF CIVIL PROCEDURE**

COME NOW Defendants in the above styled cause and file this Motion for New Trial.

Defendants assert the following grounds in support of this motion.

1. During the trial of this case, the Court allowed extensive testimony regarding one of Plaintiff's previous supervisors, James Horace.
2. Admission of testimony and exhibits regarding Horace was based upon the Court's interpretation of *National Railroad Passenger Corp. v. Morgan*, 536 U.S. 101, 122 S.Ct. 2061, 153 L.Ed. 2d 106(2002).
3. The Court's interpretation of *Morgan* was erroneous and reliance on the opinion was misplaced.
4. The admission of testimony and evidence regarding the Horace matter resulted in unfair prejudice to the Defendants.
5. Assuming, arguendo, that evidence pertaining to the Horace matter was of any probative value whatsoever, its probative value was far outweighed by its potential for unfair prejudice to Defendants.

6. The jury's verdict, as to race discrimination, is contrary to the weight of the evidence.

7. The jury's verdict, as to race discrimination, is contrary to Plaintiff's undisputed, and oft repeated, testimony that any favoritism shown Karen Stacey was the result of Stacey's friendship with Defendants Waits and Jackson.

8. The jury's verdict, as to Defendants' purported failure to promote Plaintiff, is contrary to the weight of the evidence.

9. The jury's verdict, as to Defendants' purported retaliation against Plaintiff, is contrary to the weight of the evidence.

10. The jury's award of compensatory damages to Plaintiff is contrary to the weight of the evidence.

11. The amount of compensatory damages awarded to Plaintiff is excessive.

12. The amount of compensatory damages awarded to Plaintiff is unsupported by the evidence and is such that it could not be adduced in a logical manner by reasonable persons.

13. The amount of compensatory damages awarded to Plaintiff is unsupported by the evidence and is indicative of prejudice and/or passion on the part of the jury.

14. The jury's award of punitive damages to Plaintiff is contrary to the weight of the evidence.

15. The jury's award of punitive damages to Plaintiff is improper in light of a total lack of evidence that Defendants Waits and Jackson acted with actual malice or reckless indifference to the federally protected rights of the Plaintiff.

Wherefore, premises considered, Defendants contend that their motion for new trial is due to be granted.

RESPECTFULLY SUBMITTED
TROY KING
ATTORNEY GENERAL

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CERTIFICATE OF SERVICE

I hereby certify that, on June 29, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECT system, which will send notification to the following:

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